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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,704	09/23/2003	John J. Toben	6006-149-1	2213

7590 11/12/2008
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EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

MAIL DATE	DELIVERY MODE
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11/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,704	Applicant(s) TOBEN ET AL.	
	Examiner Flemming Saether	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-7 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election without traverse of group I in the reply filed on 10/31/07 is acknowledged. Accordingly, claims 16-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

Additionally, applicant's election of species A in the reply on 7/3/2008 is acknowledged. Applicant indicated that claims 1, 2, 8-15, 21 and 22 read on the elected species with claims 1, 2 and 21 being generic. However a review of the claims listed makes it clear that those claims are in fact directed to species B. Simply, claim 8-15 and 22 require a horizontal orientation which is unique to species B. Species A has a vertical orientation. Claims 1-7 and 21 read on the elected species with only claim 1 and 2 being generic. Accordingly, claims 8-15 and 22 have been withdrawn. Applicant traverses the restriction because the examination of both species would not be an undue burden. In response, the examiner disagrees because not only would the examination of both species require an additional searching there would also be the consideration of the additional references.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siiter (US 6,901,969) in view of Wildi (US 3,590,464). Siiter is similar to applicant's admitted prior art wherein a duct reinforcement rod is fabricated by inserting a conduit over a threaded element and then having an apparatus deforming the conduit to capture the threaded element (see Figs. 9). Siiter however does not disclose the apparatus deforming the conduit at two axially spaced locations to capture the threaded element there between. Wildi discloses a fabrication apparatus including a means for deforming a conduit at two axially spaced locations to capture a threaded element, particularly a nut, there between (see for example Fig. 5). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to modify the apparatus of Siiter for it is deform the conduit at a two axially spaced locations as disclosed in Wildi so that a conventional hexagonal nut could be used to be more economical and versatile than a specialty nut with a groove as currently required in Siiter. Siiter further discloses a vertical orientation of the conduit. As to the positioning means, insertion means, and deformation means, Siiter discloses in the paragraph bridging columns 6 and 7 that various devices and mechanisms can be used to facilitate the crimping of the plug into the tube which would be inclusive of an apparatus *similar* to the ones disclosed. Alternatively, even if the process was preformed by hand in Siiter it would have been obvious to automate¹ that process thus requiring an apparatus for the positioning, insertion, and deformation means. Again, the apparatus would be *similar* to the ones disclosed since it would have to accomplish the same functions.

¹ In re Venner, 120 USPQ 192 (CCPA 1958)

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siiter in view of Wildi as applied to claims 1 and 3 above, and further in view of Di Maio (US 4,005,519). Modified Siiter does not disclose details of the apparatus as claimed. Di Maio discloses an apparatus having a rack and pinion gear mechanism (see Figs. 17 and 18). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the apparatus of modified Siiter with a rack and pinion gear mechanism as disclosed in Di Maio since rack and pinion arrangements are well known machine elements for conveniently converting rotary to linear motion which would be convenient method for automating the linear motion required the conduit on modified Siiter. As regards claims 6 and 7, the crimping blocks are disclosed in Siiter (again, refer to Figs. 9).

Allowable Subject Matter

Claim 21 is allowable. The prior art does not disclose an apparatus with a rack and pinion mechanism to drive the pushers on the sides of the tube to move the tube vertically into position over the threaded insert so that it can then be crimped.

Response to Remarks

The remarks under consideration were filed 2/25/2009.

Claims 21 and 22 were adequately addressed above.

The rejection under section 112 has been withdrawn.

Applicant argues that the combination of Siiter and Wilder does not disclose the various means claimed in claim 1. The examiner does not dispute the analysis of the various means as related to the prior art however, the claims do not require the specific structure of the means as they are disclosed. As recognized by applicant the "means for" allows for the prior art to disclose similar means than those discloses which in the instant case the combination discloses similar means as discussed above. The "means for" of the instant application's claim must be considered broadly because it is further narrowed in the dependent claims. In other words, if the "mean for" were interpreted narrowly to what is disclosed then the dependent claims would be indefinite as not being further limiting. Prong (C) of the 3-prong analysis does not allow for a narrow reading of structure of the means-plus-function when that structure is further narrowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Flemming Saether
Primary Examiner
Art Unit 3677

/Flemming Saether/
Primary Examiner, Art Unit 3677